

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

FILED  
CLERK'S OFFICE

DEC -1 A 8:52

U.S. DISTRICT COURT  
DISTRICT OF MASS

STEVEN J. SANTORE, SR., )

Plaintiff, )

v. )

STEVEN V. COONS and )  
DALTON HEALTH GROUP, LLC, )

Defendants. )

03 - 30288 - KPN

**FILING FEE PAID:**

RECEIPT # 305429

AMOUNT \$ 150.00

BY DPTY CLK ML

DATE 12/1/03

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§1441, 1446 and Fed.R.Civ.P. 81(c), defendant, Dalton Health Group, LLC ("DHG"), hereby removes this action, which is currently pending in the Massachusetts Superior Court Department of the Trial Court, Berkshire County, Civil Action No. BECV2003-00226, to the United States District Court For the District of Massachusetts. As reasons therefore, DHG states the following:

1. This Notice of Removal is being filed within thirty (30) days of DHG's receipt of the attached Complaint and Jury Demand on or about October 27, 2003.
2. This Court has subject matter jurisdiction over this action based upon diversity of citizenship pursuant to 28 U.S.C. §1332(a)(2) and the fact that the amount or value in controversy exceeds the statutory limit of Seventy-Five Thousand Dollars (\$75,000) under 28 U.S.C. §1332(b). Specifically, the plaintiff, Steven J. Santore, Sr., is now and was at the time of commencement of this action, a resident at 74 White Road, Ballston Spa, New York 12020-2118, and the corporate defendant, DHG, is now, and was at the commencement of this action, a citizen of

Massachusetts, with a place of business at 254 Main Street, Dalton, Massachusetts. The co-defendant, Steven V. Coons, also is now, and was at the commencement of this action, a citizen of Massachusetts, with a place of residence at 400 South Street, Pittsfield, MA 01201. The amount or value in controversy exceeds Seventy-Five Thousand Dollars (\$75,000) for the alleged negligence of the defendants.

3. Written notice of the filing of this Notice of Removal will be given to all adverse parties and to the Clerk of the Berkshire Superior Court as required by law.
4. Copies of the Summons, Complaint, and Civil Action Cover Sheet served upon DHG from the state court action are attached hereto as Exhibit A.

For the foregoing reasons, defendant, Dalton Health Group, LLC removes this action to this Court.

Respectfully Submitted,

DALTON HEALTH GROUP, LLC,

By its attorneys,



Thomas E. Peisch BBO# 393260

Michael R. Bernardo BBO#648310

Conn Kavanaugh Rosenthal Peisch & Ford, LLP

Ten Post Office Square

Boston, MA 02109

(617) 482-8200

DATED: November 26, 2003

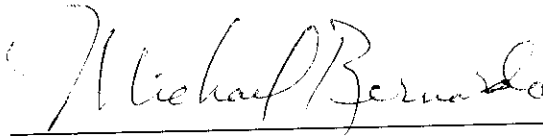
188153.1

**CERTIFICATE OF SERVICE**

I, Michael R. Bernardo, hereby certify that on this date I served a copy of the foregoing Notice of Appearance on all parties by mailing a copy thereof, postage prepaid, to:

Mitchell I. Greenwald, Esq.  
29 Wendell Avenue  
Pittsfield, MA 01201

Dennis R. Anti, Esq.  
1500 Main Street  
Suite 2400  
Springfield, MA 01115

  
\_\_\_\_\_  
Michael R. Bernardo, Esq.

DATED: November 26, 2003



## Commonwealth of Massachusetts

COPY

BERKSHIRE, ss.

SUPERIOR COURT

CIVIL ACTION

No. 03-226

A TRUE COPY ATTEST:  
 RONALD MARCELLA DEPUTY SHERIFF  
 BERKSHIRE COUNTY  
 DATE OF SERVICE 10/27/03

Steven J. Santore, Sr., Plaintiff(s)

v.

Steven V. Coons, and  
Dalton Health Group, LLC, Defendant(s)

## SUMMONS

To the above-named Defendant: Dalton Health Group, LLC; 265 Main Street; Dalton, MA 01226

You are hereby summoned and required to serve upon Mitchell I. Greenwald,

plaintiff's attorney, whose address is 29 Wendell Avenue, Pittsfield, MA 01201

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Pittsfield either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, ROBERT L. STEADMAN, Esquire at Pittsfield, the 27th day of October, in the year of our Lord ~~one-thousand-nine-hundred-and~~ 2003.

*Michael S. Caplan*  
 CLERK.

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
 (1) - TORT - (2) MOTOR VEHICLE TORT - (3) CONTRACT - (4) - EQUITABLE RELIEF - (5) - OTHER

NOTICE TO DEFENDANT—You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on ....., 19 ....., I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

Dated: ....., 10.....

N.B. TO PROCESS SERVER:—

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

, 19 .
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COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

SUPERIOR COURT  
CIVIL ACTION

No. 03-226

Steven J. Santore, Sr., Plaintiff,

v.

Steven V. Coons, and  
Dalton Health Group, LLC, Defendant.

SUMMONS

(Mass. R. Civ. P. 4)

COHA

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

SUPERIOR COURT  
C. A. 03-226

STEVEN J. SANTORE, SR.,

Plaintiff

v.

STEVEN V. COONS, and DALTON  
HEALTH GROUP, LLC.

Defendants

COMPLAINT AND JURY DEMAND

1. This is an action for personal injuries arising out of an automobile accident.

PARTIES

2. Plaintiff Steven J. Santore, Sr. resides at 74 White Road, Ballston Spa, New York 12020-2118.
3. Defendant Steven V. Coons resides or did reside at 400 South Street, Pittsfield, Massachusetts 01201.
4. Defendant Dalton Health Group, LLC ("DHC"), is a Massachusetts limited liability company which does business as Craneville Place of Dalton at 265 Main Street, Dalton, Massachusetts.

FACTS

5. On August 2, 2000, plaintiff, a driver for Roadway Express, was assigned to make a delivery at the Dalton facility of defendant DHC. When he arrived at the said facility, it was clear to him that his truck would not be able to access the driveway, and he had been given no alternative delivery instructions. Accordingly, he stopped in front of the facility; taking all reasonable safety precautions, got out of the truck, and went to the rear of the truck to unload the goods.
6. While stepping down from the rear of his truck while preparing to unload, plaintiff was struck by a vehicle owned and operated by defendant Coons.

7. As a result of said collision, plaintiff has incurred medical expenses in an amount exceeding \$17,538.00. He has suffered lost earnings in the amount of at least \$32,935.00. He has suffered continued pain of body and mind and continued disability, and may need further surgery.

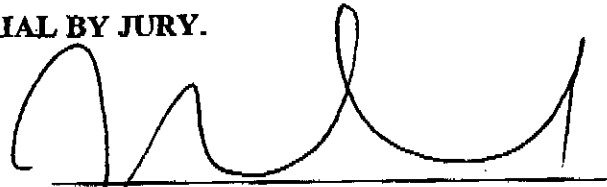
### CLAIMS

8. The said injuries and damages were caused in part by the negligence of the defendant Coons in operating his motor vehicle.

9. The said injuries and damages were caused in part by the negligence of the defendant DHC in not providing and communicating a location and method for delivery of goods which was reasonably safe for the driver of the delivery vehicle.

### WHEREFORE PLAINTIFF PRAYS:

1. That the Court award his damages to compensate him for his losses.
2. That the Court award such other relief as is just and equitable.
3. **PLAINTIFF DEMANDS A TRIAL BY JURY.**



MITCHELL I. GREENWALD  
Attorney for Plaintiff  
Katz, Murphy & Greenwald  
A Professional Corporation  
29 Wendell Avenue  
Pittsfield, MA 01201  
(413) 443-5957  
BBO#: 542032

MIG:ob:L:\LIT\SANTORE\COMPLAIN.WPD



CIVIL ACTION  
COVER SHEETTrial Court of Massachusetts  
Superior Court Department  
County: \_\_\_\_\_

PLAINTIFF(S) <b>STEVEN J. SANTORE</b>	DEFENDANT(S) <b>STEVEN COONS and DALTON HEALTH GROUP, LLC</b>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (413) 443-5957 Mitchell I. Greenwald Katz, Murphy & Greenwald 29 Wendell Avenue, Pittsfield, MA 01201 Board of Bar Overseers number: 542032	ATTORNEY (if known)

## Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint  
☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
 (Before trial) (F)  
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)  
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)  
☐ 6. E10 Summary Process Appeal (X)

CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?  
 B03 Motor vehicle negligence- (X) Yes ( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

## TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:	\$ 6,190.00
1. Total hospital expenses	\$ 2,969.00
2. Total Doctor expenses	\$
3. Total chiropractic expenses	\$ 3,016.00
4. Total physical therapy expenses	\$ 5,363.00
5. Total other expenses (describe) .. Miscellaneous Medical Expenses	Subtotal \$ 17,538.00
	\$ 32,935.00
B. Documented lost wages and compensation to date	\$
C. Documented property damages to date	\$
D. Reasonably anticipated future medical and hospital expenses	\$
E. Reasonably anticipated lost wages	\$
F. Other documented items of damages (describe)	\$
G. Brief description of plaintiff's injury, including nature and extent of injury (describe) Left knee injury, including pre-patellar cyst (surgically removed) and chondromalacia of medial femoral condyle; lumbar and left hip injury.	\$
	TOTAL \$ 50,473.00

## CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$ .....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 12/1/03

CIVIL ACTION COVER SHEET  
INSTRUCTIONS

## SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

CONTRACT			REAL PROPERTY			MISCELLANEOUS		
A01	Services, labor and materials	(F)	C01	Land taking (eminent domain)	(F)	E02	Appeal from administrative Agency G.L. c. 30A	(X)
A02	Goods sold and delivered	(F)	C02	Zoning Appeal, G.L. c.40A	(F)	E03	Action against Commonwealth Municipality, G.L. c.258	(A)
A03	Commercial Paper	(F)	C03	Dispute concerning title	(X)	E05	All Arbitration	(X)
A08	Sale or lease of real estate	(F)	C04	Foreclosure of mortgage	(X)	E07	c.112,s.12S (Mary Moe)	(X)
A12	Construction Dispute	(A)	C05	Condominium lien and charges	(F)	E08	Appointment of Receiver	(X)
A99	Other (Specify)	(F)	C99	Other (Specify)		E09	General contractor bond, G.L. c.149,s.29,29a	(A)
TORT			EQUITABLE REMEDIES			E11	Workman's Compensation	(X)
B03	Motor Vehicle negligence-personal injury/property damage	(F)	D01	Specific performance of contract	(A)	E14	Chapter 123A Petition-SDP	(X)
B04	Other negligence-personal injury/property damage	(F)	D02	Rescind and Apply	(F)	E15	Abuse Petition, G.L.c.209A	(X)
B05	Products Liability	(A)	D06	Contribution or indemnification	(A)	E16	Auto Surcharge Appeal	(X)
B06	Malpractice-medical	(A)	D07	Imposition of Trust	(A)	E17	Civil Rights Act, G.L.c.12,s.11H	(A)
B07	Malpractice-other(Specify)	(A)	D08	Minority Stockholder's Suits	(A)	E18	Foreign Discovery proceeding	(X)
B08	Wrongful death, G.L.c.229,s.2A	(A)	D10	Accounting	(F)	E99	Prisoner Cases	(F)
B15	Defamation (Libel-Standard)	(A)	D12	Dissolution of Partnership	(A)	E97	Prisoner Habeas Corpus	(X)
B19	Asbestos	(A)	D13	Declaratory Judgment G.L.c.231A	(F)	E99	Other (Specify)	(X)
B20	Personal Injury-Slip&Fall	(F)	D99	Other (Specify)				
B21	Environmental	(A)						
B22	Employment Discrimination	(F)						
B99	Other (Specify)	(F)						

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.

B03

TYPE OF ACTION (SPECIFY)

Motor Vehicle Negligence-Personal Injury

TRACK

(F)

IS THIS A JURY CASE?

☒ Yes ☐ No

## SUPERIOR COURT RULE 29

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY MAY RESULT IN DISMISSAL OF THIS ACTION.**

Just as the plaintiff must file a statement of damages, the defendant must file a statement of potential damages. The plaintiff's statement of damages must be filed with the complaint. The defendant's statement of potential damages must be filed with the answer. The plaintiff's statement of damages must be filed with the complaint. The defendant's statement of potential damages must be filed with the answer.